



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/557,371	12/05/2006	Martin Moshal	05-1009	8991
20306 7590 07/17/2009 MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP 300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606				
EXAMINER				
SHAH, MILAP				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
07/17/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/557,371

Applicant(s)

MOSHAL, MARTIN

Examiner

MILAP SHAH

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-10 and 12-15 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,2,4-10 and 12-15 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/S5108)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

This action is in response to the amendment received on April 13, 2009. The Examiner acknowledges that claims 1, 4, & 12 were amended, claims 3 and 11 were canceled and no new claims were added. Therefore, claims 1, 2, 4-10, & 12-15 are currently pending.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oles et al. (U.S. Patent No. 2003/0060280; hereafter "Oles") in view of "Title 15: Gambling and Liquor Control" (Gaming Regulations from the New Mexico Gaming Control Board; hereafter "New Mexico Gaming Regulations").

Claims 1 & 9: Oles discloses the invention substantially as claimed including a player identification system, comprising:

a betting terminal operable by a player to play at least one game thereon and to place a wager on an outcome of any turn of the game, the outcome of each turn of the game being determined, at least in part, by chance (figures 1-2 and paragraph 0026-0030, where Oles discloses the gaming machine 20 allows play of wager-type games such as poker or slots, which include a chance element);

a camera associated with the betting terminal, the camera being arranged to capture an image of the player operating the betting terminal at least once during each turn of the at least one game (abstract, figures 1-2, paragraphs 0034-0039, 0102, and 0119, where Oles discloses an

embodiment in which a wager being inserted into the gaming machine activates camera 32 to capture an image of the user); and

a logging facility that appears to log or store data representative of the image capturing during each turn of the game for a plethora of various reasons (paragraphs 0052 and 0079-0080, where Oles appears to disclose that the security data collection devices, such as camera 32, transmit their data, such as the captured image of a player, to a storage medium and further it appears that such capturing of images occurs during each turn of the game as Oles discloses that over time, the amount of stored information becomes large, thus, older data may be overridden in the local memory, such as storing the past 30 minutes worth of image information from each camera and overwriting earlier image data, nonetheless, a logging facility exists to store at least image data of the play captured by the camera during the turn of the game).

Oles appears to lack an explicit disclosure of the logging facility logging additional historical data such as the size and type of a wager placed for the turn of the game and the corresponding outcome of that turn of the game. Nonetheless, the Examiner submits that game designers having ordinary skill in the art would have found the logging of such data as a common security and verification practice known in the art. Frankly, United States law, such as the New Mexico Gaming Regulations cited herein dictate that each gaming machine must provide a complete historical log of game play for a specified period of time for every turn of the game played on each gaming machine. Such legal requirements include the logging of the size and type of the wager, the outcome of the random number generator (i.e. the outcome of the game), and any associated data pertaining to each particular play of the game. For instance, Oles discloses logging image data captured when a player inserts a wager into the gaming device for various reasons. Consequently, those skilled in the art would have found it not only obvious, but obligatory

that the logging facility of Oles also log the size of the wager, the type of the wager, and the outcome of the wagered game, absent any explicit disclosure by Oles. Given such laws, a logging facility as claimed is simply notoriously well known in the art, thus, it would have required mere routine skill or common knowledge in the art to implement the logging facility as claimed in view of the New Mexico Gaming Regulations (see section 15.1.7.10 at page 3, which explicitly requires gaming devices and their control programs to have the capacity to display a complete play history for a certain number of recent games played; note: section 15.1.7.10 appears to be dated 3/31/2000 at the latest). Those skilled would have been motivated not only by the law, but for such reasons as security. For example, gaming machines are known to fault, such as a machine displaying a particular outcome that is significantly different than an actual outcome randomly generated by the gaming machine's random number generator. In such situations, and as the law requires, a game operator may review logged data pertaining to the amount or type of wager, the actual outcome, the amount paid by the gaming machine, or the like to determine what portion of the gaming machine was at fault or perhaps to stop a potential cheater. Therefore, it would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to modify Oles to further require the data collection or logging facility to log at least the size and type of the wager and the corresponding outcome of the wagering game for at least the reasons presented above.

Regarding claim 9, given the system discussed above, it appears claim 9 is a method equivalent to the components of the system as discussed above and their corresponding functions. Thus, Oles as presented above discloses enabling a player to operate a gaming machine, capturing an image of the player during each turn of the game, and logging various historical data as discussed above.

Claims 2 & 10: Oles discloses the gaming machine may include a plurality of different selectable games (paragraph 003).

Claims 4 & 12: Clearly, it would have been further obvious to log the particular type or title of the current game being played, such as in situations where multiple selectable games are playable on a single gaming machine.

Claims 5 & 13: Oles discloses the logging facility includes a non-volatile storage memory for storing the logged data thereon (figure 3[memory 60]).

Claims 6 & 14: Oles appears to disclose the storage memory is configured as a rolling buffer capable of storing logging data relating to a number of the most recent turns of any games played (paragraph 0080, where Oles discloses the latest 30 minutes of game play logging data is stored and older data is overwritten, thus, a rolling buffer may log only recent turns; it should be noted that U.S. law requires a much longer time period for storing logged historical data).

Claims 7, 8, & 15: Oles discloses storing logging data in the storage memory such that the stored data may be displayed or played back at a later time, such as displayed on a monitor for review by a gaming operator as discussed above with respect to security. Oles, as modified, would be capable of storing all the required logging data in said storage memory for later use (paragraph 0094).

Response to Arguments

Applicant's arguments filed April 13, 2009 have been fully considered but they are not persuasive.

Applicant argues that Oles in view of the discussion of United States law as provided in the previous office action fails to make obvious the logging facility logging player images as such is not required by U.S. Law (at least based on the Technical Standards as submitted by Applicant as Exhibit A). The Examiner respectfully disagrees. First, it should be noted that the Examiner had not relied on U.S.

Law or merely "well known in the art" rationales for the capturing of player images. Rather, Oles explicitly teaches the capturing of images. The Examiner relied upon U.S. law and essentially gaming regulations that are notoriously well known to those skilled in the art as making obvious the logging of additional historical data such as the size and type of wager placed for each turn of the game, and the corresponding outcome of the game. Applicant appears to agree that such data must be logged (page 7 of Remarks), however, the Examiner acknowledges that Applicant does not concede that the "Technical Standards" of Exhibit A to be prior art. Nonetheless, the Examiner submits that same or similar regulations were known prior to Applicant's filing date, where gaming regulations or law dictated that gaming machines must have the capacity to display a complete history for the most recent games. The Examiner, thus, submits "documentary evidence" substantially equivalent to Applicant's Exhibit A teaching same or similar gaming regulations having a prior art date preceding Applicant's filing date. The Examiner submits a copy of the Gambling Regulations from the state of New Mexico (see attached document). Section 15.1.7.10 entitled "Control Program Specifications", at parts E-F discloses that the gaming machines and the control programs that run them must have the capacity to display a complete play history of the most recent games, where the display must include game outcomes, bets placed, wager types, etc. (see page 3 of 12). Therefore, the rejection above has been updated accordingly to rely on Oles in view of these regulations in view of Applicant's challenge to the "Official Notice" previously taken. Again, it should be noted that these regulations are relied on for the logging of the additional historical data, not the logging of player images, which Oles teaches explicitly. Consequently, Applicant's argument does not appear to be commensurate with the rejection set forth above and in the previous office action.

Next, Applicant argues that Oles fails to disclose a logging facility that logs a player image for each turn of the game. The Examiner respectfully disagrees. It should be noted that the claim does not specify or prevent overwriting of data. For instance, Oles teaches the camera being configured to capture an image

of the player during each play of the game, however, storing the data for a number of the most recent games versus every game ever played on the gaming machine (abstract, figures 1-2, paragraphs 0034-0039, 0102, and 0191, where Oles discloses that when a wager is inserted into the gaming machine, a camera is activated to capture an image of the user; which is essentially a player image being captured at each turn of the game). The Applicant appears to support the argument by alleging that "the approach of overwriting older data means that the system is not configured to log a player image for each turn of the game, rather, the system is configured to store player images for only a brief period of time". While this is true, it also reads explicitly to the claimed language, which does not preclude overwriting of data. For instance, if no overwriting of data, for any set period of time or number of games, occurs, then it appears an infinite amount of storage or memory would be required to store player images for each game for the lifetime of the gaming machine. This can be seen as impractical. Consequently, a review of Applicant's specification appears to contradict Applicant's position. Applicant's specification, at paragraph [0013] of the Patent Application Publication recites "...features of the invention provide for the logging facility to include a non-volatile storage memory for storing the logging data thereon, for storage memory to be configured as a rolling buffer capable of storing logging data relating to a number of the most recent turns of any games played by the player...". This recitation appears to be exactly commensurate with Oles at least with respect to the storing of player images during each play of the game. It appears a 35 U.S.C. 112, 1st paragraph rejection may be applicable, if Applicant maintains the interpretation that "each play of the game" requires the data to be stored permanently or forever, as the specification does not appear to support such an embodiment.

Last, the Examiner submits this action is properly made FINAL as the Applicant has challenged the Examiner's "Official Notice" and requested documentary evidence of those features deemed "well-

known in the art". The Examiner has submitted this documentary evidence and updated the rejection accordingly.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MILAP SHAH whose telephone number is (571)272-1723. The examiner can normally be reached on M-F: 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit
3714

/MBS/